

Department of the Air Force, DoD

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save a ship, the ship owner and all owners of the cargo must share the loss.

(c) *Maritime torts.* A maritime tort is one committed in navigable waters or on land or in the air where a substantial element of the damage, personal injury, or death occurred in navigable waters. The activity causing the tortious act must bear some significant relationship to traditional maritime activity.

(d) *Vessel.* Every description of watercraft used or usable as a means of transportation on water is a vessel. (1 U.S.C. 3)

§ 842.84 Delegations of authority.

(a) The following officials have the authority to settle a claim against the Air Force in the amounts provided:

(1) The Secretary of the Air Force has the authority to:

(i) Settle a claim for payment of more than \$500,000 and to certify it to Congress for payment.

(ii) Settle and pay a claim for \$500,000 or less.

(iii) Deny a claim in any amount.

(2) The following individuals have delegated authority to settle claims for \$100,000 or less:

(i) The Judge Advocate General.

(ii) The Deputy Judge Advocate General.

(iii) The Director of Civil Law.

(iv) The Chief and Deputy Chief, Claims and Tort Litigation staff.

(b) Delegation of settlement authority on claims in favor of the United States.

(1) The Secretary of the Air Force has the authority to settle claims for damage to property under the jurisdiction of the Air Force in an amount not to exceed \$500,000, and to settle claims for salvage services performed by the Air Force in any amount.

(2) HQ USAF/JACC refers all claims for damage to property under the jurisdiction of the Air Force for more than \$500,000 to the Department of Justice.

(3) The following individuals have delegated authority to settle claims for \$100,000 or less and deny them in any amount:

(i) The Judge Advocate General.

(ii) The Deputy Judge Advocate General.

(iii) The Director of Civil Law.

(iv) The Chief and Deputy Chief, Claims and Tort Litigation Staff.

[55 FR 2809, Jan. 29, 1990, as amended at 55 FR 32077, Aug. 7, 1990; 56 FR 1574, Jan. 16, 1991]

§ 842.85 Reconsidering claims against the United States.

This section provides the policy and procedures to reconsider any maritime claim made against the United States.

(a) The settlement authority may reconsider any claim previously disapproved in whole or in part when either:

(1) The claimant submits new evidence in support of the claim.

(2) There were errors or irregularities in the submission or settlement of the claim.

(b) There is no right of appeal to higher authority under this subpart.

Subpart K—Claims Under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2402, 2671, 2672, 2674–2680)

§ 842.86 Scope of this subpart.

This subpart governs claims against the United States for property damage, personal injury, or death, from the negligent or wrongful act or omission of Air Force military or civilian personnel while acting within the scope of their employment. It also covers similar tort claims generated by Air National Guard (ANG) members performing specified duty under 32 U.S.C. on or after 29 December 1981.

§ 842.87 Definitions.

(a) *Compromise.* An agreed settlement based upon the facts, the law, and the application of the law to the facts.

(b) *Final denial.* A letter the settlement authority mails to the claimant or authorized agent advising him or her that the Air Force denies his or her claim.

(c) *Reconsideration.* A request by the claimant or claimant's authorized agent to reevaluate a final decision. A request for reconsideration and an appeal are the same thing.

(d) *Negligence.* A departure from the conduct expected from a reasonably

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prudent person under similar circumstances.

(e) *Proximate cause.* The dominant or primary cause involving a natural and continuous sequence unbroken by an effective cause.

§ 842.88 Delegations of authority.

(a) *Settlement authority.* (1) Subject to the prior written, approval of the United States Attorney General or his designee, the following individuals have delegated authority to settle claims in excess of \$25,000, to settle claims for \$25,000 or less, and to deny a claim in any amount:

- (i) The Judge Advocate General.
- (ii) The Deputy Judge Advocate General.
- (iii) The Director of Civil Law.

(2) Subject to the prior written approval of the United States Attorney General or his designee, the Chief, Claims and Tort Litigation Staff has delegated authority to settle claims in excess of \$25,000 up to a limit of \$50,000, to settle claims for \$25,000 or less; and to deny a claim in any amount.

(3) The Deputy Chief and Branch Chiefs, Claims and Tort Litigation Staff have delegated authority to settle claims for \$25,000 or less and deny a claim in any amount.

(4) The SJA of HQ 9AF for CENTCOM, and SJAs of PACAF and USAFE have delegated authority to settle claims payable, and deny claims filed, for \$25,000 or less.

(5) The following individuals have delegated authority to settle claims payable, and deny claims filed, for \$15,000 or less:

- (i) SJAs of single base GCMs.
- (ii) SJAs of GCMs in PACAF and USAFE.
- (iii) SJAs of each Air Force base, station, or fixed installation.

(b) *Redelegation of authority.* A settlement authority may be redelegated, in writing, to a subordinate judge advocate or civilian attorney.

(c) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

(d) *Settlement negotiations.* A settlement authority may settle a claim filed in any amount for a sum within

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the delegated authority. Unsettled claims in excess of the delegated authority will be sent to the next highest level with settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

(e) *Special exceptions.* Do not settle claims for the following without HQ USAF/JACC approval:

- (1) Legal malpractice.
- (2) On the job personal injury or death of an employee of a government contractor or subcontractor.
- (3) Assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution committed by an investigative or law enforcement officer.
- (4) Animal bites.
- (5) Personal injury from asbestos or radon.
- (6) Medical malpractice.

[55 FR 2809, Jan. 29, 1990, as amended at 56 FR 1574, Jan. 16, 1991]

§ 842.89 Statute of limitations.

A claim must be presented in writing within 2 years after it accrues.

(a) Federal, not state law, determines the time of accrual. A claim normally accrues at the time of injury when essential operative facts are apparent. However, in other instances, especially in complex medical malpractice cases, a claim accrues when the claimant discovers or reasonably should have discovered the existence of the act that resulted in the claimed loss.

(b) In computing the statutory time period, the day of the incident is excluded and the day the claim was filed is included.

(c) The Air Force has 6 months to consider a properly filed claim, after which the claimant may file suit. The claimant's right to sue ends 6 months from the date the final denial is mailed.

(d) Properly asserted third party actions, as permitted under the Federal Rules of Civil Procedure, may be brought against the United States without first filing a claim. In such instances those actions may start more than 2 years after the claim has accrued.

[55 FR 2809, Jan. 29, 1990, as amended at 55 FR 32077, Aug. 7, 1990]